

Article IV - A
Special Uses

§202-21.1 Special Use Permit Procedure

A. Intent

The intent of the special use permit is to allow the proper integration into appropriate zoning districts of certain uses which, because of their characteristics, require special consideration. A special use permit may or may not be appropriate for a particular use in a particular location depending on a case-by-case review weighing the public benefit and need against the impact and effects.

B. Applicability

- (1) Certain uses, not permitted as a matter of right in a zoning district, may be located therein upon the issuance of a special use permit by the Planning Board. The provisions of this section shall apply to the issuance of all special use permits.
- (2) Any use designated as "S" (special use) in the Use Regulation Table, found at §202-19, of this Chapter shall require a special use permit. No special use permit may be issued until the Planning Board, after a public hearing, determines that the use:
 - (a) Is in general conformance with the Comprehensive Master Plan of the Village of Penn Yan.
 - (b) Will be in harmony with other uses in the zoning district in which it would be located to ensure that the proposed use is to be conducted in a manner compatible with the surrounding neighborhood and will not constitute a threat to the public health, safety, welfare or convenience.
 - (c) Will not tend to depreciate the fair market value of the adjacent properties and takes into account any possible need for screening or other protective measures.
 - (d) Will not create a hazard to health, safety or the general welfare.
 - (e) Will not be detrimental to the flow of traffic in the vicinity.
 - (f) Will be served adequately by essential public facilities and services, such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such additional services as the Planning Board deems appropriate.

C. Application for a Special Use Permit

- (1) Upon receipt of an application for zoning compliance, the Code Enforcement Officer shall determine as to whether a special use permit is required.
- (2) Applications for a Special Use Permit shall be made to the Planning Board Application forms must be accompanied by the requisite fee, as established by the Village Board, and submitted to the Village Clerk at least three (3) weeks in advance of the Planning Board meeting at which it is to be considered.

- (3) Applications shall be referred to the County Planning Board for review pursuant to General Municipal Law Section 239m.
- (4) Each application shall be accompanied by twelve (12) copies of a proposed site plan, drawn to scale, showing the following: **
 - (a) The title of the drawing, the name and address of person responsible for preparation of the drawing and date of drawing.
 - (b) A general location map identifying the location of the lot for which the permit is requested, including the tax map number and street address.
 - (c) Boundaries of the lot for which the permit is requested.
 - (d) Location of all streets and identifying existing land uses within three hundred (300) feet of the boundaries of the lot for which the permit is requested.
 - (e) Location, dimensions and description of all existing or proposed buildings and structures on the lot, including distances of all exterior portions of the buildings or structures to the lot boundary lines.
 - (f) Location of any existing or proposed outdoor storage including description and quantities of what is to be stored.
 - (g) Location of all existing and proposed access drives, parking areas and other paved surfaces, showing dimensions and setback distances to lot boundary lines.
 - (h) All existing and proposed landscaping on the property.
 - (i) A grading and drainage plan showing proposed elevation contour lines of the lot upon which the use is proposed. Such grading and drainage plan shall show the elevation contours for the immediate ten (10) feet outside the boundary lines of and surrounding the premises which are the subject of the application, for the full perimeter of such subject premises.
 - (j) Location of existing and proposed water lines, sanitary and storm sewers, natural gas lines and power, telephone and cable lines.
 - (k) Location and description of all existing and proposed exterior signs.
 - (l) Location and design of all exterior lighting fixtures, including directions of lumination and intensity thereof.
 - (m) A record of application and status of any other permits required for the project.
 - (n) Requisite State Environmental Quality Review documentation.
 - (o) Any other information concerning the proposed use considered necessary by the Planning Board in its sole discretion.

**The Planning Board may waive, in writing, such of these specifications which are not necessary or appropriate, depending on the type, size, design, location or special circumstances of the proposed use.

- (5) Any costs incurred by the Planning Board for consultation fees or extraordinary expenses in connection with the review of any application shall be charged to the applicant and shall be paid in full prior to issuance of the permit.
- (6) At the discretion of the Planning Board, application and approval may proceed concurrently with those of site plan approval. No final site plan approval shall be given until the special use has been approved.

D. Public Hearing; Decision; Permit

- (1) The Planning Board shall conduct a public hearing before issuing any special use permit. Such hearing shall be held within sixty-five (65) days of receipt of the complete application for a special use permit. The decision of whether the application is complete shall be in the sole discretion of the Planning Board.
- (2) Public notification will be made as follows:
 - (a) Notice sign(s) shall be posted on the property, in plain view from all public ways for a minimum of two (2) weeks prior to hearing, stating date and time of the public hearing. Signs may be obtained in the code enforcement office.
 - (b) Notice shall be advertised, at least once, in a newspaper of general circulation in the village at least ten (10) days prior to hearing.
 - (c) Notice shall be posted in the village office at least five (5) days prior to hearing.
 - (d) The Notice shall contain:
 - (i) That a public hearing will be held upon application for a special use;
 - (ii) The date, time and location of the public hearing;
 - (iii) The address of the premises which are the subject of the application;
 - (iv) The nature of the proposed use;
 - (v) That the application and supporting documents are available for examination at the Village offices; and
 - (vi) Any other pertinent information deemed appropriate by the Planning Board.
- (3) The Planning Board shall act on a special use permit within sixty-five (65) days of the public hearing. This time limit may be extended by mutual consent of the applicant and the Planning Board. Once a decision has been made, a written statement of such decision shall be filed in the Village Clerk's Office, filed with the Code Enforcement Officer and either mailed or delivered to the applicant, along with an endorsed copy of the approved plans and the special use permit. In the event such application is denied, an explanation of the reasons for disapproval and a copy of the written decision shall be mailed to the applicant by certified mail, return receipt requested.
- (4) The special use permit shall be of a form approved by the Planning Board and contain the following:
 - (a) The name of the applicant, property owner and occupant of property, if different from owner.
 - (b) The address and tax map identification number of the property.
 - (c) The specific special use which has been approved.
 - (d) An itemization of any conditions of the permit.
 - (e) A specific list of all plan(s), map(s) and/or documents upon which the special use permit approval was granted.
 - (f) The date of issuance of the permit.
 - (g) Signature of the Chairperson of the Planning Board.

E. Administration of Special Use Permits

- (1) A Special use Permit shall be valid for a period of six (6) months from the date of issuance unless a building permit is issued and substantial construction has actually begun. At the discretion of the Planning Board, a permit may be renewed, once, for a period not to exceed six (6) months.
- (2) In the event that a project is not completed within one (1) year of the date of issuance of the building permit, the applicant may apply for an extension for a period not to exceed one (1) year. A statement justifying the extension shall accompany the request for an extension and the process will be the same as for the initial application. When approving any extensions the Planning Board may impose safeguards to protect the public interest.
- (3) A permit shall be deemed to authorize only the particular use for which it was originally issued and only to the property listed on the permit. Such permit shall automatically expire if such use shall, for any reason, be discontinued for six (6) consecutive months.
- (4) Any special use permit may be revoked by the Planning Board if it is determined that any of the requirements of this section or any conditions imposed by the Planning Board in conjunction with the issuance or renewal of the special use permit have been violated.

F. A special use permit shall be required for those uses as specified in the Use Regulation Table at §202-19 of this chapter.

G. Appeals

Any person aggrieved by the decision of the Planning Board may appeal such decision as provided by law.

§202-21.2 Manufactured Homes

A. Purpose:

It is recognized that manufactured homes and manufactured home parks are a means of meeting housing needs. The requirements in this section will allow for the harmonious integration of manufactured homes in the Village of Penn Yan.

B. General regulations:

- (1) Manufactured homes not placed in a manufactured home park shall meet the following requirements:
 - (a) Shall be located only as specified in the Use Regulation Table found in §202-19.
 - (b) Shall only be used as a single family home.
 - (c) Shall undergo a site plan approval process.
 - (d) Shall be placed on a permanent foundation that meets all manufacturers specifications, US Government Department of Housing and Urban Development

requirements and the Residential Code of NYS.

- (e) Shall have an exterior finish consisting of materials customarily used for site built homes.
- (f) Shall have skirting made of a masonry material such as block or brick installed on a frost proof foundation.
- (g) Shall have the electric service meter mounted on a building (no pole meter).
- (h) Shall have the water service meter located in a heated utility room within the building or a raised hot box pursuant to the Village of Penn Yan Municipal regulations.
- (i) Shall have minimum one hundred twenty square foot storage shed or a minimum one and one half car garage for storage.
- (j) Shall comply with any site-specific requirements specified by the Planning Board of the Village of Penn Yan.

C. Manufactured Home Parks

(1) General regulations.

- (a) A manufactured home park may be permitted by the Planning Board after it has been determined that such park is in compliance with the requirements of this chapter.
- (b) A special use permit shall be required for all manufactured home parks.
- (c) A manufactured home park may be located only as specified in the Use Regulation Table found in §202-19.
- (d) The operation and maintenance of a manufactured home park shall be the Responsibility of the park owner and shall comply with all other provisions of this code.
- (e) Within a manufactured home park, no building, structure, lot or land shall be used for other than one or more of the following uses:
 - (i) Manufactured homes used as a single family home;
 - (ii) Any use or accessory use permitted in the district in which the manufactured home park is located.
- (f) No travel or vacation trailer or other form of temporary type living units shall be set-up or occupied in a manufactured home park.
- (g) All accessory structures shall meet the Building Code of New York State and be appropriate for the intended use and location. Such structures shall meet all setback requirements.

(2) Park Design Standards.

- (a) A minimum of five percent of the net park area, after deducting the aggregate area of the street system, shall be set aside for common use or recreation area.
- (b) The manufactured home park shall be no less than twenty (20) acres in size.
- (c) The site shall have a street system that gives direct access to manufactured home spaces and have two access drives to and from the public street. All streets shall be designed per minimum standards for private roads as specified in the Design and Construction Standards for Land Development in the Village of Penn Yan.
- (d) All manufactured homes and accessory structures shall be set back at least thirty-five (35) feet from the right-of-way line of any public street and twenty-five (25) feet from all other property lines.

- (e) Home spaces (lots within manufactured home parks) shall have the following sizes and setbacks: a minimum area of five-thousand (5,000) square feet and a minimum lot width of fifty (50') feet. Larger minimum lot dimensions may be required where the Planning Board considers the establishment of larger lots necessary to preserve the character of the general area. Minimum setback of twenty (20') feet from manufactured home park streets and a minimum separation of thirty-five (35') feet between structures on adjoining lots.
- (f) Manufactured Home spaces (lots within the manufactured home park) shall have no more than thirty-five percent lot coverage including the home, garage and storage buildings or structures on the lot.
- (g) Design and construction of manufactured home parks shall conform to applicable building regulations and generally accepted standards for manufactured home parks, including New York State Department of Health regulations.
- (h) Driveways and parking areas shall be provided with paved or durable surfaces so as to provide safe and easy access under normal use and weather conditions.
- (i) Walkways shall be a minimum of three (3) feet wide and meet all other requirements of chapter 174, article I, section 174-4 of the Penn Yan Village Code.
- (j) Artificial lighting shall be provided to illuminate walks, driveways and parking areas for safe movement of pedestrians and vehicles at night.
- (k) All community areas, maintenance buildings and general parking areas shall have an adequate landscape buffer pursuant to section 202-60 for a minimum of six feet from lot line of adjoining residential properties.
- (l) Each home space shall have:
 - (i) A twelve-foot wide driveway extending far enough past the front of the home to allow required parking in the side or back yard of the lot.
 - (ii) Graded and level home "stand" capable of retaining the home in a fixed position per New York State Manufactured Home installation requirements. Such stand shall be adequately drained and compacted and at such an elevation, distance and angle, in relation to the access way, as to facilitate the safe and efficient placement and removal of the home.
 - (iii) Skirting of suitable material to enclose all areas under the home.
 - (iv) A minimum eighty (80) square feet storage shed or a minimum one-car garage for storage.
 - (v) A minimum three (3) feet wide by four inch thick concrete sidewalk from parking area/driveway to each entrance of all buildings on each mobile home lot for safe and easy access to and from the mobile home and accessory buildings.
 - (vi) An inconspicuous fuel oil or propane storage shelter/enclosure if either are used in conjunction with the structure(s) on the lot.
 - (vii) Suitable underground utility connections as specified by code.

(3) Utilities.

- (a) Each manufactured home lot shall be provided with a separately metered water supply, separately metered electrical connection, and suitable sanitary drainage connection.
- (b) Utility connections, including gas connection, if provided, shall be readily accessible at the home site and have the means for safe and efficient hook up to the home.
- (c) The water system shall be designed to provide a sufficient supply of potable water under adequate pressure to outlets servicing homes, community structures, drinking fountains, hose connections hydrants, and other water supply sites.

- (d) Water supply connections shall be located a safe distance from the sanitary drainage connection and shall not be subject to surface drainage. Means shall be provided for a suitable watertight connection, without cross connection or the danger of freezing.
- (e) A sewage disposal system shall provide each mobile home and community structure containing plumbing fixtures with an adequate and safe method of sewage disposal. The park sewage disposal system shall be connected to the Village of Penn Yan municipal sewage disposal system.
- (f) Sanitary drainage connections shall be in a proper location relative to each home, and piping shall have a continuous grade to the point of disposal. Drainage connections shall be provided with suitable fittings to permit a watertight junction to be made to the home outlet.
- (g) Gas connections, if provided, shall have a suitable gas tight connection to the home.
- (h) The electric system connection shall provide at least 100 amperes service at 100-115/220-250 volts. The terminal box shall be of an approved waterproof type and have provision for an equipment ground.
- (i) Liquefied petroleum gas storage containers having a capacity exceeding 125 gallons of storage shall be located not less than 25 feet from the nearest home, building, structure or lot line. All liquefied petroleum tanks shall be protected from damage by vehicles.
- (j) Fuel oil and other flammable liquids or materials shall be stored so as not to be a fire hazard.

(4) Storm water drainage

- (a) The manufactured home park shall have adequate facilities for the drainage of surface and subsurface water.
- (b) The grading of the entire property shall be such as to facilitate the safe and efficient drainage of surface water.
- (c) Gutters, culverts, catch basins, drain inlets, storm water sewers or other satisfactory drainage systems shall be utilized where deemed necessary.

(5) Garbage and refuse

- (a) Adequate sanitary facilities and methods shall be provided for the collection, storage, handling and disposal of garbage and refuse.
 - (b) The park owner shall be responsible for disposal of garbage and refuse and shall provide necessary containers as required by section 170-5 of the Code of the Village of Penn Yan.
 - (c) No garbage or refuse shall be disposed of on site.
- (6) A maintenance building or building(s) of appropriate size shall be located within the park. All park equipment and materials shall be stored inside such maintenance building(s).

§202-21.3 Adult Use Establishment

A. Legislative findings; purpose and intent

- (1) The adult use study, adopted by the Village Board on February 11, 2003, finds that the secondary effects of adult uses have an adverse impact to the health, safety, morals and general welfare of the communities where they exist. It is the purpose of this section to regulate adult use businesses to promote the health, safety, morals and

general welfare of the citizens of the Village of Penn Yan and to establish reasonable and uniform regulations to prevent the concentration of adult use businesses within the Village of Penn Yan.

- (2) The provisions of this chapter have neither the purpose nor the intent of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Similarly, it is not the purpose or intent of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the Constitution of the United States or the Constitution of the State of New York. Neither is it the intent to deny access to distributors and exhibitors of sexually oriented entertainment to their intended market. It is neither the purpose nor intent of this section to condone or legitimize the distribution of obscene materials.

B. Permit required; Inspections

- (1) A person may operate an adult use in the Village of Penn Yan only after a special use permit has been issued for such adult use.
- (2) Prior to the commencement of any adult use or upon any transfer of ownership or control of an adult use the premises must be inspected by the Code Enforcement Officer or Building/Zoning Officer and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for an adult use and in compliance with the Code of the Village of Penn Yan and the Fire Code and Property Maintenance Codes of New York State.
- (3) All code enforcement officials, including the Village building Inspector /Code Enforcement Officer, shall complete their certification that the premises are in compliance, or are not in compliance, within 28 days of the inspection of the premises by such officials.
- (4) Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator shall permit representatives of the Village Building Department, the Yates County Sheriffs Department, the New York State Police, the State Health Department, the Village Building Inspector/Code Enforcement Officer, the Village Police Department, or any other village, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of an adult use for the purpose of ensuring compliance with this section at any time the premises is occupied or open for business.

C. Specifications for an Adult Use.

- (1) An adult use shall not be operated within 500 feet of : a dwelling; a church or other place of worship; a nursery school; elementary school; secondary school; vocational school; a child care center; a hospital, nursing home or convalescent home; a library or museum; a cemetery; the boundary of a residential district; a public park, playground, sport facility or recreation area; a business selling alcoholic beverages.
- (2) An adult use shall not be operated within 1,000 feet of another adult use or on the same lot or parcel of land as any other adult use.
- (3) An adult use shall not be operated in the same building or structure or portion thereof, containing another adult use.

- (4) For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted, to the nearest property line of the premises of: a dwelling; a church or other place of worship; a nursery school, elementary school, secondary school, or vocational school; a childcare center; a hospital, nursing home or convalescent home; a library or museum; a cemetery; the boundary of a residential district; or a public park, playground or recreation area; a business selling alcoholic beverages.
- (5) For the purpose of this section, the distance between any two adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (6) All adult uses shall be conducted in an enclosed building. Regardless of location or distance, adult uses shall be arranged and conducted so that no visual observation can be made from the exterior of an enclosed building containing an adult use therein of any specified anatomic area or of any specified sexual activity by virtue of any display in or on the building which depicts, exhibits or shows said area or activity. This prohibition shall apply to any display, decoration, sign or window or other opening or any other means or method of visual portrayal of information or advertisement.
- (7) Any other requirements the Planning Board may deem necessary or appropriate for the protection of the public welfare.

D. Signs

Signs for adult use businesses shall be governed by section 202-64 of the Code of the Village of Penn Yan and sub-paragraph C.6. of this Section of the added requirements for Adult Use Establishments.

Section 5: Amendment of Use Regulation Table.

The Use Regulation Table, §202-19 of the Zoning Chapter of the Code of the Village of Penn Yan, shall be amended in accordance with the provisions of this local law.

Section 6: Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan.